

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of
JOHN A. MANNING PAPER COMPANY, :
Inc.

**AFFIDAVIT OF MAILING
OF NOTICE OF DECISION
BY (CERTIFIED) MAIL**

For a Redetermination of a Deficiency or
a Refund of Sales and/ or Use :
Taxes under Article(s) 28 of the
Tax Law for the ~~(Year(s))~~ Period from :
August 1, 1965 thru February 29, 1968

State of New York
County of Albany

Janet Wright , being duly sworn, deposes and says that she is an employee of the Department of Taxation and Finance, over 18 years of age, and that on the 7th day of July , 1970, she served the within Notice of Decision (or Determination) by (certified) mail upon Frank J.

Lasch, Esq. (representative of) the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows: Frank J. Lasch, Esq.
90 State Street
Albany, New York

and by depositing same enclosed in a postpaid properly addressed wrapper in a (post office or official depository) under the exclusive care and custody of the United States Post Office Department within the State of New York.

That deponent further says that the said addressee is the (representative of) petitioner herein and that the address set forth on said wrapper is the last known address of the (representative of the) petitioner.

Sworn to before me this

7th day of July , 1970.

Narie Buckley

James Wright

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

JOHN A. MANNING PAPER COMPANY,
Inc.
For a Redetermination of a Deficiency or
a Refund of Sales and/or Use
Taxes under Article(s) 28 of the
Tax Law for the ~~(Year(s))~~ Period from
August 1, 1965 thru February 29, 1968

AFFIDAVIT OF MAILING
OF NOTICE OF DECISION
BY (CERTIFIED) MAIL

State of New York
County of Albany

Janet Wright, being duly sworn, deposes and says that
she is an employee of the Department of Taxation and Finance, over 18 years of
age, and that on the 7th day of July, 1970, she served the within
Notice of Decision (or Determination) by (certified) mail upon John A. Manning
Paper Company, Inc. (representative of) the petitioner in the within
proceeding, by enclosing a true copy thereof in a securely sealed postpaid
wrapper addressed as follows: John A. Manning Paper Company, Inc.
Green Island, New York

and by depositing same enclosed in a postpaid properly addressed wrapper in a
(post office or official depository) under the exclusive care and custody of
the United States Post Office Department within the State of New York.

That deponent further says that the said addressee is the (representative
of) petitioner herein and that the address set forth on said wrapper is the last
known address of the (representative of the) petitioner.

Sworn to before me this

7th day of July, 1970.

Maria Buckley

Janet Wright

BUREAU OF LAW

MEMORANDUM

TO: The State Tax Commission

FROM: Solomon Sies, Hearing Officer

SUBJECT: John A. Manning Paper Company, Inc.

Petition to Review Determination Assessing
Sales or Use Taxes Under Article 28 of the
Tax Law for the Periods from August 1, 1965
through February 29, 1968

A formal hearing was held in the above matter at the
Albany office on February 20, 1969.

The sole issue involved is whether wet paper maker's
felts having a useful life of one year or less are subject to
sales and/or use taxes or exempt therefrom. Determinative of
the issue is whether or not the aforementioned felts constitute
"parts" or "equipment".

The taxpayer, John A. Manning Paper Company, Inc., is
a corporation organized under the laws of the State of New York
engaged in the manufacture of paper and maintains its principal
place of business at Green Island, New York. The taxpayer has
three papermaking machines. (a) The first is approximately
110 inches wide and 130 feet long. The bottom felt used with
this machine is 108 inches wide and 112 feet long. It is com-
posed of 19% synthetic, balance wool and has a useful life of
from one to two and a half weeks. The second felt on this machine
is 108 inches wide and 52 feet long. It is composed of 15% syn-
thetic, balance wool and lasts three weeks to three months. Light-
weight telephone cable and saturating papers and a heavy-weight
saturating and/or filter paper are produced on this machine. (b)
The second machine is approximately 110 inches wide and 100 feet
long. The bottom felt used with this machine is 106 inches wide
and 77 feet long. It is composed of 14 to 20% synthetic, balance
wool and it lasts from one to two weeks. The pick-up felt on this
machine is 106 inches wide and 75 feet long. It is 100% wool and
lasts approximately four weeks. The second felt is 108 inches
wide and 40 feet long. It is made of 15% synthetic, balance wool
and lasts approximately three weeks. This machine, with its variety
of felts, is used to produce saturating papers, tissue grades used
for lens wiping, floral paper, electrical tapes, telephone cable
insulation, and various light-weight papers. (c) The third machine used
by the taxpayer is approximately 110 inches wide and 160 feet long.
It is a duplex with a cylinder and fourdrinier machine. The bottom
felt is 110 inches wide and 128 feet long. It is a needle felt used
primarily for abrasive backing paper and lasts approximately four
weeks. This felt is used only with the cylinder section. The bot-
tom felt is used with the fourdrinier section and is a woven felt

110 inches wide and 134 feet long and lasts approximately three to four weeks. The second position felt is 108 inches wide by 40 feet long. It is 15% synthetic, balance wool and lasts three to four weeks.

The wet felt is specially designed to fit the particular machine for the type of paper manufactured, is seamless and is attached to the machine in connection with the performance of its functions. The wet felt and sheet are compressed between the press rolls, resulting in water removal from the sheet. The felt must withstand all the difficult conditions encountered on a paper machine and still provide a smooth, soft, yet resilient cushion for conveying a wet web of paper, too weak to support itself.

Section 1115(a)(12) of the Tax Law with respect to exemption from sales and use taxes provides as follows:

"Machinery or equipment for use or consumption directly and exclusively in the production of tangible personal property, gas, electricity, refrigeration or steam for sale, by manufacturing, processing, generating, assembling, refining, mining or extracting, or telephone central office equipment or station apparatus or comparable telegraph equipment for use directly and exclusively in receiving at destination or initiating and switching telephone or telegraph communication, but not including parts with a useful life of one year or less or tools or supplies used in connection with such machinery, equipment or apparatus."

Although there is no definition in the Tax Law of the words "machinery", "equipment" or "parts", Booklet No. 4, New York State and Local Tax Information, Questions and Answers on Manufacturing, page 11, provides as follows:

"'Parts' for machinery or equipment refers to any portion of an entire machine or piece of equipment and includes motors, dies, cutting blades or other devices actually attached to such machinery or equipment in connection with the performance of its functions. For example, the buttonhole attachment used in connection with a sewing machine by a dress manufacturer is a part, as is the motor for the machine. Parts for machinery and equipment used directly and exclusively in production are exempt from the upstate local taxes. Such parts with a useful life of more than one year, are also exempt from the 2% Statewide tax."

The taxpayer contends that the wet felt constitutes equipment. It further contends that the function of the wet felts are similar to that of stereotype matrices (mats), unexposed photo sensitive (offset) metal plates, unexposed metal or plastic photo engraving plates, glass screens and photostatic paper which the Department ruled as constituting equipment and not parts. (N.Y.S. Tax Bulletin 1968-1, page 70). The mats referred to are a type of papier-mache and are used to mold the metal cast plate which contains the letter press printing for use on the roller press which prints the newspapers. These materials referred to can be distinguished from the wet felts presently at issue in that they are not directly attached to the machine so as to become a part thereof.

In a recent Opinion of Counsel, it has been held that molds made of tool steel actually inserted and attached to injection molding machines into which a plastic is injected under heat and pressure, cooled and ejected from the mold as a finished product, constitute "parts". (N.Y.S. Tax Bulletin, 1968-1 page 59).

The word "equipment" is defined in Webster's Dictionary as: 1. Act of equipping; state or manner of being equipped. 2. Articles comprised in an outfit, as furnishings or apparatus; equipage. The word "equip" is defined in Webster's Dictionary as follows: 1. To furnish for service; to fit out, as troops. 2. To dress array. The synonym for equip is furnish.

It was not intended that the word "equipment" have a separate and distinct meaning from the word "machinery"; it is synonymous with "machinery" and is intended to cover materials which may house the particular machinery such as rails, pipes and so forth which are not an integral part of the machine itself. The word "parts", I believe, is sufficiently defined in Booklet No. 4.

I am, therefore, of the opinion that the wet paper maker's felts constitute "parts" since they are attached directly to a machine, have a useful life of less than one year, and are thus not exempt from sales and/or use tax in accordance with the provisions of section 1115(a)(12) of the Tax Law.

For the reasons stated above, I recommend that the determination in the above matter be substantially in the form submitted herewith.

SOLOMON SIES

Hearing Officer

STATE OF NEW YORK
STATE TAX COMMISSION

IN THE MATTER OF THE APPLICATION

OF

JOHN A. MANNING PAPER COMPANY, INC.

To Review a Determination Assessing or
Denying a Refund or Credit of Sales and/or
Use Taxes Under Article 28 of the Tax Law
for the Periods from August 1, 1965
through February 29, 1968

DETERMINATION

John A. Manning Paper Company, Inc., having filed an application for a hearing to review a determination assessing or denying a refund or credit of sales and/or use taxes under Article 28 of the Tax Law for the periods from August 1, 1965 through February 29, 1968 and a hearing having been held in connection therewith at the office of the State Tax Commission, State Campus, Albany, New York on the 20th day of February, 1969 before Solomon Sies, Hearing Officer, and the taxpayer, John A. Manning Paper Company, Inc. having appeared by DeGraff, Foy, Conway and Holt-Harris, Esqs., by Frank J. Lasch, Esq. of Counsel, testimony having been taken and the matter having been duly considered,

The State Tax Commission hereby finds:

(1) At all of the times hereinafter mentioned, John A. Manning Paper Company, Inc. was and still is a domestic corporation organized under the laws of the State of New York maintaining its principal office at Green Island, New York, engaged in the manufacture of paper. The aforementioned taxpayer filed New York State and local sales and use tax returns for the tax periods August 1, 1965 through February 29, 1968. On October 11, 1968 the Department of Taxation and Finance issued a notice of determination and demand for payment of sales and/or use taxes due, (Notice No. 90,756,241) for the periods August 1, 1965 through February 29, 1968 based upon an audit of the records of the said taxpayer which disclosed additional tax due based on additional purchases subject to sales

and/or use tax. Additional tax was imposed in the amount of \$9,303.30 together with penalty and/or interest in the amount of \$979.40 for a total of \$10,282.70 crediting the taxpayer with payment of the basic tax of \$9,303.30 leaving a balance due in the amount of \$979.40. The taxpayer has paid said amount and is now seeking a refund of the tax, penalty and interest with respect to the wet felts, namely \$5,123.04. The vendor at the time it filed its returns had not paid the tax on wet felts used in the production of paper having a useful life of one year or less. The sales and/or use tax on these wet felts amounted to \$4,143.64. The taxpayer also failed to pay tax on labor for repairs to machinery and other miscellaneous purchases, some of which were purchased from out-of-state vendors who did not charge the sales tax. The sales and/or use tax on these repairs and miscellaneous purchases amounted to \$5,159.66. The taxpayer is only contesting the determination imposing tax on the purchases of the wet felts.

(2) The taxpayer has three papermaking machines. The first is approximately 110 inches wide and 130 feet long. The bottom felt used with this machine is 108 inches wide and 112 feet long. It is composed of 19% synthetic, balance wool and has a useful life of from one to two and a half weeks. The second felt on this machine is 108 inches wide and 52 feet long. It is composed of 15% synthetic, balance wool and lasts three weeks to three months. Light-weight telephone cable and saturating papers and a heavy-weight saturating and/or filter paper are produced on this machine. The second machine is approximately 110 inches wide and 100 feet long. The bottom felt used with this machine is 106 inches wide and 77 feet long. It is composed of 14 to 20% synthetic, balance wool and it lasts from one to two weeks. The pick-up felt on this machine is 106 inches wide and 75 feet long. It is 100% wool and lasts approximately 4 weeks. The second felt is 108 inches wide and 40 feet long.

7. 1994年12月29日，在《人民日报》发表署名文章《中国要实行“三权分立”》，文章指出：“三权分立”是资产阶级国家政权组织形式，是资产阶级专政的工具。中国要实行“三权分立”，就是要把国家权力交给资产阶级，就是要把国家权力交给外国势力，就是要把国家权力交给帝国主义。中国要实行“三权分立”，就是要把国家权力交给资产阶级，就是要把国家权力交给外国势力，就是要把国家权力交给帝国主义。中国要实行“三权分立”，就是要把国家权力交给资产阶级，就是要把国家权力交给外国势力，就是要把国家权力交给帝国主义。

1. *Journal of the American Medical Association*, 1997; 277: 1039-1043.

It is made of 15% synthetic, balance wool and lasts approximately three weeks. This machine, with its variety of felts, is used to produce saturating papers, tissue grades used for lens wiping, floral paper, electrical tapes, telephone cable insulation, and various light-weight papers. The third machine used by the taxpayer is approximately 110 inches wide and 160 feet long. It is a duplex with a cylinder and Fourdrinier machine. The bottom felt is 110 inches wide and 128 feet long. It is a needle felt used primarily for abrasive backing paper and lasts approximately four weeks. This felt is used only with the cylinder section. The bottom felt is used with the Fourdrinier section and is a woven felt 110 inches wide and 134 feet long. This lasts approximately three to four weeks. The second position felt is 108 inches wide by 40 feet long. It is 15% synthetic, balance wool and lasts three to four weeks.

(3) The wet felt is specially designed to fit the particular machine for the type of paper manufactured, is seamless and is attached to the machine in connection with the performance of its functions. The wet felt and sheet are compressed between the press rolls, resulting in water removal from the sheet. The felt must withstand all the difficult conditions encountered on a paper machine and still provide a smooth, soft, yet resilient cushion for conveying a wet web of paper, too weak to support itself.

(4) Section 1115(a)(12) of the Tax Law with respect to the exemption from sales and use taxes provides in part as follows:

"Machinery or equipment for use or consumption directly or exclusively in the production of tangible personal property, gas, electricity, refrigeration or steam for sale, by manufacturing, processing, generating, assembling, refining, mining or extracting, or telephone central office equipment or station apparatus or comparable telegraph equipment for use directly and exclusively in receiving at destination or initiating and switching telephone or telegraph communication, but not including parts with a useful life of one year or less or tools or supplies used in connection with such machinery, equipment or apparatus."

(5) Booklet No. 4, New York State and Local Sales Tax Information, Questions and Answers on Manufacturing issued by the Sales Tax Bureau, Department of Taxation and Finance, page 11, provides as follows:

"Parts" for machinery or equipment refers to any portion of an entire machine or piece of equipment and includes motors, dies, cutting blades or other devices actually attached to such machinery or equipment in connection with the performance of its functions. For example, the buttstitch attachment used in connection with a sewing machine by a dress manufacturer is a part, as is the motor for the machine. Parts for machinery and equipment used directly and exclusively in production are exempt from the upstate local taxes. Such parts with a useful life of more than one year, are also exempt from the 2% Statewide tax."

Based upon the foregoing facts and all of the evidence presented herein,

The State Tax Commission hereby

DETERMINES:

(A) The wet paper maker's felts constitute "parts" and not "equipment" since they are attached directly to a machine, have a useful life of less than one year, and are thus not exempt from the imposition of sales and/or use taxes within the intent and meaning of Section 1115(a)(12) of the Tax Law.

(B) Accordingly, the notice of determination issued against the taxpayer (Notice No. 90,756,241) is correct and does not contain any tax or other charge which could not have been lawfully demanded. The taxpayer's application for a redetermination thereof is therefore denied.

Dated: Albany, New York the 2nd day of July, 1970.

STATE TAX COMMISSIONER

Norman Gelman
President

/s/ A. Bruce Manley
Commissioner

/s/ Milton Koerner
Commissioner

DEPARTMENT OF TAXATION AND FINANCE

MEMORANDUM

TO : Mr. Edward Rook
FROM : Fred W. Tierney
SUBJECT: Hearing Determinations

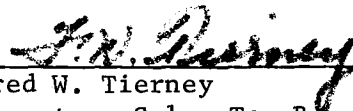
OFFICE: Sales Tax Bureau

DATE : November 16, 1970

On July 2, 1970 a determination was issued in the matter of John A. Manning Paper Company, Inc. We learned of the determination approximately four months later, when the file was returned to the Sales Tax Bureau.

Could you arrange to give us a copy of future determinations, as soon as signed by the Commission? This will avoid embarrassing situations where we might appear to be ignorant of the fact that there has been a determination.

We will issue copies to the District Offices. The memo will state that the four month period to apply for an article seventy-eight proceeding has not elapsed.


Fred W. Tierney
Director, Sales Tax Bureau

November 8, 1970

Mr. Thomas J. Cooley
Assistant Controller
Manning Paper Company
Troy, New York 12181

Dear Mr. Cooley:

This will acknowledge your letter of November 3, 1970, enclosing your check in the amount of \$7,231.65.

I am referring your letter to Mr. Tierney, Director of the Sales Tax Bureau, who will be in touch with you further.

Very truly yours,

EDWARD ROCK
Secretary to the
State Tax Commission

Letter and check sent to Mr. Tierney 11/6/70.

